

BOARD OF APPEALS  
for  
MONTGOMERY COUNTY

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
(240) 777-6600

**Case No. A-5634**

**PETITION OF PAUL WEISS AND BOB CRAIN**

(Hearing held September 19, 2001)

**OPINION OF THE BOARD**

(Effective date of Opinion, October 19, 2001)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(b)(2). The petitioners propose to construct a one-story addition that requires an eight (8) foot variance as it is within twelve (12) feet of the rear lot line. The required setback is twenty (20) feet.

The subject property is Lot 6, Block A, Highland View Park Subdivision, located at 25 Lauer Court, Silver Spring, Maryland, in the R-60 Zone (Tax Account No. 1012377).

Decision of the Board: Requested variance **denied**.

**EVIDENCE PRESENTED TO THE BOARD**

1. The petitioner proposes to construct a one-story addition in the northern side yard.
2. The petitioners testified that the property is a uniquely shaped, shallow lot. In response to questions from the Board, the petitioners testified that shallowness is a characteristic that their property shares with the surrounding properties.
3. The petitioners testified that the residence is located on a hill, on a cul-de-sac. The petitioners testified that the topography of the other lots on the cul-de-sac is level and that other lots are deeper from front to back than their lot.
4. The record contains a letter of opposition from Monzique Bilezikian, an adjoining neighbor on Eton Road. Ms. Bilezikian's letter states the variance request would reduce her privacy and the value of her property.
5. The petitioners stated that the proposed addition would not be located on the side that faces the Bilezikian property. The petitioners testified that they have spoken with their neighbors and received the support of the surrounding three neighbors for the requested variance.

**FINDINGS OF THE BOARD**

Based upon the petitioners' binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards and requirements set forth in Section 59-G-3.1(a) as follows:

*(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The Board finds that the petitioner's lot is not unique and has no peculiar or exceptional existing topographical conditions that are not shared by the neighboring properties. Further, the Board finds that the irregular shape and size of the petitioners' property is a characteristic shared with the neighboring properties shown on Exhibit No. 8 (zoning vicinity map).

Since the petition does not meet the requirements of Section 59-G-1.3(a), the Board finds that it does not need to consider the other requirements for granting a variance. Accordingly, the requested variance of eight (8) feet from the required twenty (20) foot rear lot line setback for the construction of one-story addition is denied.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Louise L. Mayer, seconded by Donna L. Barron, with Angelo M. Caputo, Allison Ishihara Fultz and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the foregoing Resolution.

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Donald H. Spence, Jr.  
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing  
Opinion was officially entered in the  
Opinion Book of the County Board of  
Appeals this 19th day of October, 2001.

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Katherine Freeman  
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County

Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.